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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

HEENEY et al.

Examiner: Duc Truong

Serial No.: 10/661,812

Group Art Unit: 1711

Filed: September 15, 2003

Title: MONO-, OLIGO- AND POLY(3-ALKYNYLTHIOPHENES) AND THEIR  
USE AS CHARGE TRANSPORT MATERIALS

**RESPONSE TO SECOND NOTIFICATION OF NON-COMPLIANT BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Second Notification of Non-compliant Brief mailed December 1, 2006, appellants urge that the Brief on Appeal filed on August 25, 2006, is fully compliant with 37 C.F.R. §41.37 and that substantive action on the appeal should proceed in an expedited manner.

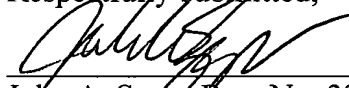
The current Notice alleges that the "Summary of the Claimed Subject Matter" does not properly map independent claim 1 to the supporting disclosure because support for the proviso in claim 1 is not found in the parts of the specification cited. The Brief does provide page and line citations to the specification for support of all elements of the independent claim. The support for the proviso is not literally stated in the specification but is supported nonetheless. This is the substantive issue under 35 U.S.C. §112, first paragraph, discussed in part 1 of the Argument in the Brief. Rejection of the Brief on procedural grounds of non-compliance is not the proper forum for addressing this issue. It is fully addressed

substantively in the Brief. Thus, it is urged that the substantive appeal should proceed and not further be delayed.

The current Notice also repeats the allegation that the heading "Related proceedings" is missing. However, 37 C.F.R. §41.37 does not require such a heading, instead it requires the heading "Related Appeals and Interferences." This heading is in the Brief on Appeal filed on August 25, 2006, and was in the original Brief as well.

Action on the appeal is earnestly solicited.

Respectfully submitted,



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Attorney Docket No.: MERCK-2740

Date: December 8, 2006